

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

WILLIAM O PERKINS, III,

Plaintiff,

v.

**THE UNITED STATES VIRGIN ISLANDS,
THE VIRGIN ISLANDS BUREAU OF
INTERNAL REVENUE, and THE VIRGIN
ISLANDS DEPARTMENT OF FINANCE**

Defendants.

CIV. NO. 3:17-cv-00025

DEFENDANTS' REPLY TO PLAINTIFF'S BRIEF IN OPPOSITION

COME NOW Defendants, Government of the United States Virgin Islands the Virgin Islands Bureau of Internal Revenue, and the Virgin Islands Department of Finance, by and through their undersigned counsel, and hereby states its REPLY to Plaintiff's Response Brief (ECF # 18) to Defendants' Motion To Dismiss (ECF # 14). Defendants state as follows:

1. BACKGROUND

Plaintiff filed the Complaint in this matter on April 18, 2017. Plaintiffs allege in the Complaint that on October 17, 2016 Plaintiff filed an income tax return ("2015 Tax Return") with the Virgin Islands Bureau of Internal Revenue ("VIBIR") for the calendar years/tax year ending December 31, 2015 ("Tax Year 2015"). Plaintiff alleges that the 2015 Tax Return reported an overpayment and requested that a refund be paid. Plaintiff alleges that more than six months have elapsed since the 2015 Tax Return including the claim for refund was filed.

Service of the summons upon the Governor, VIBIR, and the Virgin Islands Department of Finance ("FINANCE") was made on June 1, 2017. The returned summons for all three defendants were filed with the Court on June 16, 2017. Plaintiff filed a notice of intent to seek default on June

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16, 2017. Assistant Attorney General Hugh A. Greentree of the Virgin Islands Department of Justice filed a notice of appearance on behalf of all three defendants on June 19, 2017. Attorney Greentree filed a motion to dismiss the original complaint on July 14, 2017 (ECF # 14) using the Court's CM/ECF system on behalf of all three defendants. A memorandum in support of the motion was filed that same day (ECF # 15) using the Court's CM/ECF system on behalf of all three defendants.

On August 3, 2017 Plaintiff filed an Amended Complaint (ECF # 17); an Opposition to Motion to Dismiss (ECF # 18); a Motion to Convert Motion to Dismiss into a Motion for Summary Judgment (ECF #19); and a Motion for Discovery Regarding Jurisdiction (ECF# 20). On August 4, 2017 Plaintiff filed a Motion For Judgment of Default Against FINANCE (ECF # 21) and a Motion to Deposit Funds With the Court Pursuant to FED. R. CIV. P. 67 (ECF # 22). On August 9, 2017 Plaintiff filed a Motion for Discovery Rule 16 Conference and Scheduling Order (ECF # 23).

2. ARGUMENT

Plaintiff's opposition to Defendants' motion to dismiss for should be disregarded because Defendants' motion to dismiss regarding the original Complaint in this matter was rendered moot when Plaintiff filed the First Amended Complaint on August 3, 2017. *See W. Run Student Hous. Assocs., LLC v. Huntington Nat'l Bank*, 712 F.3d 165, 171 (3d Cir. 2013).

3. CONCLUSION

WHEREFORE, for the reasons stated herein, Defendants respectfully request this Court to disregard Plaintiff's response brief.

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Respectfully Submitted,
CLAUDE E. WALKER
ATTORNEY GENERAL

Dated: August 17, 2017

By: /s/ Hugh A. Greentree
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CERTIFICATE OF SERVICE

I hereby certify that on the August 17, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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